SUMMARY

Claims 1-8, 11-13, 30-35, 37-48 and 51-53 were rejected in the subject Action. In this response, various claims have been amended as previously listed, claims 13, 32, and 53 are cancelled without prejudice or disclaimer, and no claim has been added. Claims 9, 10, 14-29, 36, 49, and 50 remain cancelled under previous paper.

Accordingly, claims 1-8, 11, 12, 30, 31, 33-35, 37-48, 51, and 52 are pending. Reconsideration of the application is respectfully requested.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

Claims 1-8, 30, 31, and 41-48 were rejected under 35 USC § 103 (a) as alledgedly being unpatentable over Sankaranarayan and Forrest (U.S. Patent No. 6,799,208, hereinafter Forrest) in view of Hunt, (U. S. Patent No. 6,983,463, hereinafter Hunt). The rejection is hereby traversed for the following reasons.

Independent claims 1, 30, and 41 have been amended to include part of subject matter from claims 13, 32 and 53, respectively. As such, the rejection of the claims 1, 30, and 41, and their dependent claims 2-8, 31, and 42-48 will be discussed along with the rejection to claims 11-13, 32-35, 37-40, and 51-53 in the following paragraphs.

Claims 11-13, 32-35, 37-40, and 51-53 were rejected under 35 USC § 103 (a) as alledgedly being unpatentable over Forrest in view of Hunt, and further in view of Bowman-Amuah, (U. S. Patent No. 6,345,239, hereinafter Bowman).

Claims 13, 32 and 53 are cancelled, rendering moot of their rejections.

Claim 1 has been amended to recite part of subject matter similar to claim 13, now cancelled. Amended claim 1 recites, among other things:

> predicting, by the computing device, the performance of the application with carrying out of the first one or more suggested optimization actions;
> observing, by the computing device, actual performance of the application after carrying out of the first one or more suggested optimization actions;
> comparing, by the computing device, the observed actual performance of the application to the predicted performance of the application;

utilizing, by the computing device, a result of the comparing to further generate second one or more optimization action suggestions to potentially further improve performance of the application.

It was asserted, on page 8 of the Office Action, that Bowman teaches:

monitoring the actual application performance to generate empirical data; comparing the actual application performance to the predicted performance; and utilizing the empirical data when analyzing the determined configuration and requirements in order to attempt to optimize the performance of the application (Column 90, lines 30-44; Column 91, lines 4-14) for the purpose of making sure that the system is performing well.

However, cited portion of Bowman actually teaches:

a method 5800 [illustrated in FIG. 58] for predictive fault management over a network. A performance of a network is monitored in operation 5802 . In operation 5804 , any degradation in the performance of the network is identified. A future performance of the network is *predicted* in operation 5806 *based on the identified degradation in the performance of the network*. In operation 5808 , the predicted future performance is *compared to performance requirements of service level agreements* of a plurality of network users to identify any future problems in meeting the performance requirements. The network is reconfigured in operation 5810 to avoid the problems in meeting the performance requirements. *Bowman*, col. 90, ll. 30-42.

As such, Bowman, at best, teaches predicting the performance of the network based on *the identified degradation*, and comparing the predicted performance with the *performance requirements of service level agreements*. Bowman, however, fails to teach or suggest "predicting . . . the performance of the application after carrying out the first *one or more suggested optimization actions*, observing ... actual performance of the application after carrying out the first *one or more suggested optimization actions*, . . . comparing . . . the observed *actual performance of the application* to the predicted performance of the application, and utilizing ... a result of the comparing to generate second one or more optimization action suggestions to potentially further improve performance of the application" as recited in claim 1.

Forrest and Hunt fail to cure the deficiencies of Bowman. It was conceded in the Office Action, on pages 7-8, that Forrest in view of Hunt fails to teach said comparing. Consequently, the combination of Forrest, Hunt, and Bowman fails to support a § 103 rejection of claim 1. Therefore, such rejection should be withdrawn.

Claims 30 and 41, as amended, include part of subject matter distinguishable from Forrest, Hunt and Bowman for reasons similar to the previous discussion with regard to claim 1.

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Therefore, the combination of Forrest, Hunt, and Bowman fails to support a § 103 rejection of claims 30 and 41, and such rejection should be withdrawn.

Claims 2-8, 11, 12, 31, 33-35, 37-40, 42-48, 51 and 52 depend on one of claims 1, 30 and 41, thereby incorporating all of their respective recitations. Therefore, rejections to claims 2-8, 11, 12, 31, 33-35, 37-40, 42-48, 51 and 52 should also be withdrawn by virtue of their dependencies.

Furthermore, with regard to rejection of claims 7 and 47, it is asserted in the Office Action that

> Forrest does not specifically teach wherein device and environment characterization database is incrementally generated as each of the resources of the system of resources is powered-on.

> However, it would have been obvious to one having ordinary skill in the art of resource tracking to update the database tracking resource records only when the resource is powered on, since otherwise, the powered off resource will have no way of contacting the system and therefore the system can not know the existence ofihese powered ofi resources.

However, the Office Action fails to cite any portion of Hunt, or Bowman for that matter, for teaching "wherein device and environment characterization database is incrementally generated as each of the resources of the system of resources is powered-on." If the intend purpose of the above assertion is to take an Official Notice, the Notice is traversed herein. It is respectfully requested that specific reference be provided so that a proper response may be prepared.

The rejections to claims 8, 48, 11, 37, 51, 35, 39, and 40, and the presumed Official Notices taken in these rejections are traversed herein for similar reason.

As the absence of references evidences no such references exist, the rejections to 7, 47, 8, 48, 11, 37, 51, 35, 39, and 40 should be withdrawn for at least this additional reason.

CONCLUSION

In view of the foregoing, reconsideration and allowance of pending claims are solicited. If the Examiner has any questions concerning the present paper, the Examiner is kindly requested to contact the undersigned at (206) 407-1565. If any fees are due in connection with

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filing this paper, the Commissioner is authorized to charge the Deposit Account of Schwabe, Williamson and Wyatt, P.C., No. 50-0393.

Respectfully submitted,
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